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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,954	07/16/2003	Ronald DeMeo	017712-000121US	8587
20350	7590	05/19/2004		
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			EXAMINER	
			SMITH, JOHNNIE L	
			ART UNIT	PAPER NUMBER
			2881	

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/620,954	DEMEO ET AL. <i>(initials)</i>	
	<b>Examiner</b>	<b>Art Unit</b>	
	Johnnie L Smith II	2881	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 July 2003.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-114 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) \_\_\_\_\_ is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) 1-114 are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C.

121:

- I. Claims 1-4, drawn to polymeric mixture, classified in class 252, subclass 478.
- II. Claims 5-43, 46-90, and 93-114, drawn to protective garments, classified in class 250, subclass 516.1.
- III. Claim 44 drawn to radiation protective liner for buildings, classified in class 250, subclass 517.1.
- IV. Claim 45 drawn to a radiation probe, classified in class 250, and subclass 336.1.
- V. Claims 91 and 92 drawn to a coating process, classified in class 427, subclass 160.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I-V are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for

patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because group I introduces a radiation protection mixture. The subcombination has separate utility such as in group II which presents a protective garment that uses the mixture of group I, group I and II present separate utilities. Group III introduces radiation protective liner for buildings, which as discussed above with regards to group I, operates differently from group I even though the radiation mixture of group I is present. Group IV introduces a radiation probe, which has a different function than the previously mentioned group even though the radiation mixture of group I is present. Group V introduces a coating process that even though the radiation mixture of group I is present, has a different utility than that of group I.

3. Inventions II-V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, inventions II-V has separate utility such as group II present protective garments; group III introduces radiation protective liner for buildings; group IV introduces a radiation probe; and group V introduces a coating process. Even though all of the above-mentioned groups

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contain a related radiation protection mixture; group II has a different utility than that of groups III-V. See MPEP § 806.05(d).

4. Inventions III-V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, inventions III-V has separate utility such as group III introduces radiation protective liner for buildings; group IV introduces a radiation probe; and group V introduces a coating process. Even though all of the above-mentioned groups contain a related radiation protection mixture; group III has a different utility than that of groups IV and V. See MPEP § 806.05(d).

5. Inventions IV and V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, inventions IV and V has separate utility such as group IV introduces a radiation probe and group V introduces a coating process. Even though both of the above mentioned groups contain a related radiation protection mixture; group IV has a different utility than that of group V. See MPEP § 806.05(d).

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6. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnnie L Smith II whose telephone number is 571-272-2481. The examiner can normally be reached on Monday-Thursday 7-4 P.M. and Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R Lee can be reached on 571-272-2477. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



JOHN R. LEE  
SUPRVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2880